

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAEVON JAMELL LOVE,

Petitioner,

v.

WARDEN,

Respondent.

Case No. 2:22-cv-01963-KJM-JDP (HC)

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner brought his petition for habeas relief on October 31, 2022. ECF No. 1. On January 12, 2023, I directed respondent to file a response to the petition within sixty days, ECF No. 6, and respondent filed an answer on March 13, 2023, ECF No. 11. Then, on July 14, 2023, petitioner filed a motion for default judgment wherein he asserted that he had, as of that date, not received any response to his petition. ECF No. 13. Respondent indicated that he had mailed a copy of the answer to petitioner on March 13, 2023. ECF No. 11 at 24. It appears that petitioner did not receive that mailing. Given that the answer was timely filed, I find no basis for default judgment and will recommend that the motion be denied. I will also direct respondent to re-serve the answer and any supporting documents on petitioner within seven days of this order's entry. Petitioner's traverse, if any, shall be due within sixty days of this order's entry.

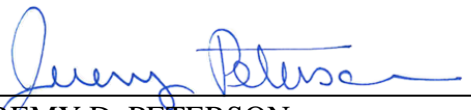
1 Accordingly, it is ORDERED that Respondent shall reserve the answer to the petition
2 within SEVEN DAYS of this order's entry. Petitioner's traverse, if any, must be filed within
3 SIXTY DAYS of this order's entry.

4 Further, it is RECOMMENDED that the motion for default judgment, ECF No. 13, be
5 DENIED.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of
8 being served with these findings and recommendations, any party may file written objections with
9 the court and serve a copy on all parties. Such a document should be captioned "Objections to
10 Magistrate Judge's Findings and Recommendations." Any response to the objections shall be
11 served and filed within fourteen days after service of the objections. The parties are advised that
12 failure to file objections within the specified time may waive the right to appeal the District
13 Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d
14 1153 (9th Cir. 1991).

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16 IT IS SO ORDERED.

17 Dated: September 19, 2023

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19 JEREMY D. PETERSON
20 UNITED STATES MAGISTRATE JUDGE
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